REMARKS

New claim 30 specifies that the cation of the chelator salt comprises a protonated or quaternised amine containing not more than 1 hydroxyl group per N-substituent and at least one N-substituent comprising at least one C_1-C_{10} terminal hydrocarbyl group. See, for example, page 13, lines 6 to 9. Entry thereof is respectfully requested.

Pursuant to the prior Office Action (i.e., the Action of May 4, 2007) all of the then pending claims were rejected over Voss (US 3,507,796) in view of Franks et al. (US 4,145,532). In response, on October 31, 2007 Applicants submitted an Amendment that included an amendment of claims 1 and 29 (the only independent claims in the application). Claim 1 was amended to specify that less than 50% by weight of water is present in the compositions therein described (excluding any volatile propellant that may be present) and claim 29 was amended to specify that the cation of the chelator salt therein described is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine, or 2-aminobutan-1-ol.

At page 2, first paragraph the instant Office Action (i.e., the Office Action of February 7, 2008) states: "Applicant's arguments filed 2/8/07 have been fully considered but they are not persuasive." However, at the third paragraph, the same Action goes on to state: "Claims 1, 4, 7, 8, 10-12, 15, 18, 21 and 23 no longer remain rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 3507796 in view of Franks et al. (US 4145532). " Following its summary of the prior amendment, the Action sets forth what appears to be its current position regarding the obviousness rejection as follows: "Applicants have amended claim 1 to recite that the composition comprises less than 50%

water and claim 29 to recite the specific cations of the chelator salts. For this reason the rejection is withdrawn". See page 6, lines 1 to 4.

On or about May 6, 2008, in a telephone conversation with the undersigned (who had called requesting clarification of the rejections being applied against the subject claims), Examiner Alton Prior confirmed that the 35 U.S.C. §103 rejections against the subject claims was withdrawn for the reasons given at page 6 of the subject Action and that **the only rejections remaining** were the non-statutory obviousness type double patenting rejections set forth in the Office Action. Applicants note that the outstanding Action is the first instance of a double-patenting rejection being applied against the subject claims.

Pursuant to the non-statutory obviousness-type double patenting rejections, claims 1, 4-12, and 14-29 of the subject application were rejected over:

(i) claims 1-18 of US 6,792, 914,

(ii) claims 1, 4, 7, 8, 12-16, and 18-26 of co-pending application Serial No. 10/895,179, and

(iii) claims 1-21 of US 6,503,490.

These rejections are respectfully traversed.

One set of charts provided below lists the independent claims of the instant application and the issued or pending/non-withdrawn independent claims of the patents/application cited in the double-patenting rejection. Another set of charts summarizes the dependent claims of the subject application and those of US6,792,914 (the '914 patent) as well as the dependent pending or independent withdrawn claims of

copending application Serial No. 10/895,179 (which claims priority from the application that issued as the '914 patent). Applicants note that the claims listed for Serial No. 10/895,179 are taken from the Amendment of October 31, 2007.[1]

Comparing claim 1 of the subject application with claims 1 and 18 of the '914 patent, it is noted that in contrast to the chelator component of the instant claims (which is required to have an organic cation that comprises a protonated or quaternised amine), the iron chelator described by the claims of the '914 patent is described as being selected from a group of very specific materials, i.e., N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, and diethylenetriaminepentaacetic acid. Further distinguishing claims 1 and 18 of this application from claim 1 of the '914 patent is the instant requirement that the protonated or quaternised amine that forms the organic cation has 0 to 3 hydroxyl groups per N-substituent and at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group. The specification of a limited number of hydroxyl groups and the requirement of a terminal hydrocarbyl group helps to define compositions that are relatively hydrophobic. Requiring the organic cation to have some hydrophobic character counter-balances the hydrophilic nature of the chelator salt anion, and in addition to the resulting chelator being compatible with a variety of organic solvents, promotes compatibility with other components normally found in compositions formulated for deodorant use (for example, fragrance). No such express requirement of a limited number of hydroxyl groups coupled with a requirement of a specific terminal hydrocarbyl group is present in claims 1 and 18 of the '914 patent.

[1] In an Office Action dated March 4, 2007 in Serial No. 10/895,179, 35 USC 103(a) rejections were applied against the pending claims thereof over Voss in view of several secondary publications. To the extent that they are not already of record, the secondary publications are listed in a Supplemental Information Disclosure Statement that accompanies this response.

Claim 1 of the '914 patent further includes a solubility promoter that may, but need not, be an organic amine (organic amines being but one class of solubility promoter described therein; when present it can result in the iron III chelator being present as a solubilised salt or acid salt). Independent claim 18 of the '914 patent requires the claimed composition to contain (i) a C_1 to C_4 monohydric alcohol carrier fluid at a specified level, (ii) an iron (III) chelator component selected from the group consisting of: N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, and diethylenetriaminepentaacetic acid, and (iii) water as a solubility promoter. Additionally, whereas, claim 1 of the subject application more broadly recites that the transition metal chelator comprises a solution in an organic solvent, claims 1 and 18 of the '914 patent read on a composition that comprises greater than 50% by weight of a C_1 to C_4 monohydric alcohol carrier fluid. Claim 29 of the subject application is further distinguished as specifying that the cation of the chelator salt is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine or 2-aminobutan-1-ol.

Dependent claims of the subject application and the '914 patent may be similar with respect to the specification of further components, for example, fragrance, additional antimicrobial agent, or propellant, or may add additional requirements as regards particular components that are similar, for example, the amount of chelator. See the second series of tables attached to this response. Notwithstanding, for the most part, many of the differences noted above in the discussion of the independent claims apply. As regards the amine solubility promoter, it is noted that claims 6, 7, 8 and 15 of the '914 patent require the presence of an amine solubility promoter, allowing for some potential overlap with instant claims. Notwithstanding the potential overlap, it is respectfully submitted that compositions comprising the organic-cation containing chelators of the instant claims (i.e., protonated or quaternised amines of transition metal chelators having particular structural

requirements, which chelators are not limited to salts of N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, or diethylenetriaminepentaacetic), describe compositions that, for purposes of obviousness-type double patenting, distinguish over the compositions claimed in the co-pending application.

Co-pending application Serial No. 10/895,179 (under rejection) has a single independent claim (claim 1) that is similar to claim 1 of the '914 patent. Among other differences in the express claim language, claim 1 of the co-pending application: specifies the monohydric alcohol carrier fluid as being present at a level of at least 25% by weight of the total composition and requires the presence of a solubility promoter selected from a group that reads on components (b) to (e) of the solubility promoter component of '914 claims. It is respectfully submitted that similar arguments apply regarding the inventiveness of the subject claims over those of co-pending '179 application. For comparative purposes independent and dependent claims of this application are summarized in the tables below.

US 6,503,490 (the '490 patent) is very different than the present application. The claims of the '490 patent all require a specified phenolic/enolic component. In the broadest claim description, the phenolic/enolic compound is specified as a compound that is a transferring dissociation promoter that operates by aiding the reduction of iron (III) bound to transferring in iron (II) and /or an anti-oxidant comprising a tert-butylphenol group. The benefits derived from the present invention are achieved without such a phenolic/enolic component and their attainment without such component cannot be said to be obvious in light of the '490 claims. Accordingly it is respectfully submitted that the subject claims patentably distinguish over those of the '490 patent.

Attorney Docket No.: J3509(C)
Serial No.: 09/764,734
Filed: January 17, 2001
Confirmation No.: 6621

In view of the foregoing, reconsideration of the nonstatuatory obvious type double patenting rejections and allowance of the subject claims is respectfully requested. It is noted that a Supplemental Information Disclosure Statement and Petition to Suspend Prosecution accompany this response. The Supplemental Information Disclosure Statement discloses an opposition filed June 6, 2008 in EP 1259215 B, a family member of co-pending application Serial No. 11/103,284 and US 6,893,630, and, if not already of record, the documents relied on by the opponent (Henkel) in those proceedings.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

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Attorney Docket No.: J3509(C)
Serial No.: 09/764,734
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APPLICATION/PATENT	INDEPENDENT CLAIMS (ISSUED OR PENDING, NON-WITHDDRAWN CLAIMS)
Subject application (09/764,734)	1. An antimicrobial composition comprising: A carrier material and a salt of a transition metal chelator comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternized amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the antimicrobial composition is in the form of a deodorant product for use on the outer surface of the human body or on apparel worn in close proximity thereto, wherein less than 50% by weight of water is present in the composition, excluding any volatile propellant that may be present. 29. An antimicrobial composition for use on the outer surface of the human body comprising a carrier material and a salt of a transition metal chelator comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternised amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the cation of the chelator salt is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine or 2-aminobutan-1-ol.
6,793,914	1. An antimicrobial composition comprising: (i) a C_1 to C_4 monohydric alcohol carrier fluid, present at a level of at least 50% by weight of the total composition, excluding any volatile propellant present; (ii) an iron (III) chelator selected from the group consisting of: N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, and diethylenetriaminepentaacetic acid (iii) a solubility promoter selected from the group consisting of: (a) water; (b) an organic amine; (c) a polyhydric alcohol or derivative thereof; (d) a volatile propellant having fluorine-carbon or oxygen-carbon atoms; (e) any combination of (a) to (d). 18. An anti-microbial composition comprising: (i) a C_1 to C_4 monohydric alcohol carrier fluid, present at a level of at greater than 50% by weight of the total composition, excluding any volatile propellant present (ii) an iron (III) chelator selected from the group consisting of: N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, and diethylenetriaminepentaacetic acid (iii) water as a solubility promoter.

Attorney Docket No.: J3509(C)
Serial No.: 09/764,734
Filed: January 17, 2001
Confirmation No.: 6621

APPLICATION/PATENT	FILING DATE	INDEPENDENT PENDING, NON-WITHDRAWN CLAIMS
Subject application (09/764,734)	1/17/01	1. An antimicrobial composition comprising: A carrier material and a salt of a transition metal chelator comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternized amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the antimicrobial composition is in the form of a deodorant product for use on the outer surface of the human body or on apparel worn in close proximity thereto, wherein less than 50% by weight of water is present in the composition, excluding any volatile propellant that may be present. 29. An antimicrobial composition for use on the outer surface of the human body comprising a carrier material and a salt of a transition metal chelator comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternised amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the cation of the chelator salt is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine or 2-aminobutan-1-ol.
Serial No, 10/895,179*	1/20/04	1. An antimicrobial composition comprising: (i) a C_1 to C_4 monohydric alcohol carrier fluid, present at a level of at least 25% by weight of the total composition (excluding any volatile propellant present); (ii) an iron (III) chelator selected from the group consisting of: N,N'-ethylenebis[2-(2-hydroxyphenyl)glycine], triethylenetetraaminehexaacetic acid, and diethylenetriaminepentaacetic acid, and salts and acid salts thereof; (iii) a solubility promoter selected from the group consisting of: (a) an organic amine; (b) a polyhydric alcohol or derivative thereof; (c) a volatile propellant having fluorine-carbon or oxygen-carbon atoms; (d) any combination of (a) to (c), wherein if water is present in the composition, the weight ratio of monohydric alcohol carrier fluid to water is greater than 90:10 and wherein the composition is under pressure in an aerosol container and wherein the pressurized antimicrobial composition is homogeneous solution, and wherein the antimicrobial composition is composition for use on the human body or on apparel worn in close proximity thereto.

* claim format for the '179 application is taken from an Amendment filed on even date of this submission.

Attorney Docket No.: J3509(C)
Serial No.: 09/764,734
Filed: January 17, 2001
Confirmation No.: 6621

APPLICATION/PATENT	FILING DATE	INDEPENDENT CLAIMS (ISSUED OR PENDING, NON-WITHDRAWN CLAIMS)
Subject application (09/764,734)	1/17/01	1. An antimicrobial composition comprising: A carrier material and a salt of a transition metal chelator comprising a solulion in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternized amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the antimicrobial composition is in the form of a deodorant product for use on the outer surface of the human body or on apparel worn in close proximity thereto, wherein less than 50% by weight of water is present in the composition, excluding any volatile propellant that may be present. 29. An antimicrobial composition for use on the outer surface of the human body comprising a carrier material and a salt of a transition metal chelator comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation, wherein the cation comprises a protonated or quaternised amine, other than triisopropanolamine, containing 0 to 3 hydroxyl groups per N-substituent and at least at least one N-substituent comprising a C_1-C_{10} terminal hydrocarbyl group, wherein the cation of the chelator salt is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine or 2-aminobutan-1-ol.
6,503,490	10/9/01	1. A method of achieving an anti-microbial and deodorancy benefit comprising the application to the human body or to an article wearable in close proximity thereto, of an anti-microbial product comprising effective amounts of a transition metal chelator and a phenolic or enolic compound that is (a) a transferring dissociation promoter that operates by aiding the reduction of iron(III) bound to transferring to iron(II) and or (b) an anti-oxidant comprising a tert-butylphenol group. 9. An anti-microbial deodorant composition for use on the human body comprising at least 0.35% by weight of a transition metal chelator and at leat 0.35% of a phenolic or enolic compound that is (a) a transferring dissociation promoter that operates by aiding the reduction of iron (III) bound to transferring to iron(II) and/or (b) an antioxidant comprising a tert-butylphenol group, wherein the weight percentages exclude any volatile propellant present. 21. A method for the manufacture of a deodorant composition for use on the human body, comprising the formation of a mixture of at least 0.35% by weight of a transition metal chelator and at least 0.05% by weight of a phenolic or enolic compound that is (a) a transferring dissociation promoter that operates by aiding the reduction of iron(III) bound to transferring to iron(II) and/or (b) an anti-oxidant comprising tert-butylphenol group, wherein the weight percentages exclude any volatile propellant present.

Subject application (09/764,734)		**US 6,703,914**		**10/895,179**	
Claim No./ (Dependency)	**Dependent claim requirements**	**Claim No./ (Dependency)**	**Dependent claim requirements**	**Claim No./ (Dependency)**	**Dependent claim requirements; withdrawn claims (dependent or independent)**
		2/(1)	Composition is a deodorant composition for use on the human body or on apparel worn in close proximity thereto.		
30/(1)	Cation of the chelator salt comprises a protonated or quaternised amine containing not more than 1 hydroxyl group per N-substituent and at least one N-substituent comprising at least one C_1-C_{10} terminal hydrocarbyl group				
4/(1)	Cation of the chelator salt is a protonated amine				
5/(4)	Cation of the chelator salt is protonated 2-amino-2-methyl-1-propanol, cyclohexylamine, diisopropanolamine, or aminobutan-1-ol				
6/(1)	Organic cation is present at a level sufficient to neutralize at least 60% of any acid groups on the acid form of the chelator anion.	7/(6)	Organic amine is present at a level sufficient to neutralize at least 60% of any acid groups on the iron (III) chelator.	7/(1)	Organic amine is present at a level sufficient to neutralize at least 60% of any acid groups on the iron (III) chelator.

7/(1)	Organic cation is present at a level sufficient to lead to an aqueous solution of the chelator salt having a pH of between 6 and 8 (at a molar concentration of chelator salt equal to that present in the composition).	8/(6)	Organic amine is present at a level sufficient to lead to an aqueous solution of the chelator salt having a pH of between 6 and 8 at a molar concentration of chelator equal to that present in the composition.	8/(1)	Solubility promoter comprises an organic amine and the organic amine is present at a level sufficient to lead to an aqueous solution of the chelator salt having a pH of between 6 and 8, at a molar concentration of chelator salt equal to that present in the composition.
8 /(1)	Anion of the transition metal chelator salt has affinity for iron (III).				
9/(8)	Anion of the transition metal chelator salt has a binding coefficient for iron (III) of greater than 10^{26}.				
11/(1)	Anion of the transition metal chelator salt has an acid form comprising at least five acid groups				
10/(1)	Transition metal chelator salt is a polyaminocarboxylic acid salt.				
12/(10)	Transition metal chelator is a diethylenetriamine pentaacetic acid salt.	12/(1)		12/(1)	Iron (III) chelator is diethylenetriaminepentaacetic acid or a salt thereof.
15/(1)	Chelator salt is present at a concentration of 0.01% to 10% by weight, excluding any volatile propellant present.	9/(1)	Chelator is present at a concentration of 0.01% to 10% by weight of the composition, excluding any volatile propellant present	13/(1)	Chelator is present at a concentration of 0.01% to 10% by weight of the composition, excluding any volatile propellant present.
		3/(1)	Composition is a homogeneous solution.		

		4/(3)	Composition is a homogeneous solution in aqueous ethanol.	4/(1)	Homogeneous solution is a solution in aqueous ethanol.
14/(1)	Ratio of other liquid components to water is greater than 65:35 by weight.				
		5/(1)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is greater than 65:35.		
		6/(1)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is greater than 75:25 and the solubility promoter comprises an organic amine.		
28/(1)	Organic solvent comprises from 60% to 97% by weight of the total liquids present, excluding any liquefied volatile propellant that may be present.				
16/(1)	Composition is in the form of an aerosol composition comprising a volatile propellant	13/(1)	Composition contains a volatile propellant.		
		14/(13)	Volatile propellant comprises from 30 to 99% by weight of the total composition.	18/(1)	Volatile propellant comprises from 30 to 99% by weight of the total composition.
		15/(14)	Contains greater than 40% by weight of volatile propellant and a solubility promoter selected from the group comprising: (a) an organic amine free of	19/(18)	Composition comprises greater than 40% by weight of a volatile propellant and a solubility promoter selected from the group consisting essentially of:

			any N-H bonds and/or O-H bonds; (b) an organic amine and a polyhydric alcohol or derivative thereof; (c) an organic amine and a volatile propellant having fluorine-carbon or oxygen-carbon bonds.		(a) an organic amine free of any N-H bonds and/or O-H bonds; (b) an organic amine and a polyhydric alcohol or derivative thereof; (c) an organic amine and a volatile propellant having fluorine-carbon or oxygent-carbon bonds.
		16/(13)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is between 95:5 and 99:1.	20/(1)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is between 95:5 and 99:1.
		17/(13)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is greater than 99:1.	21/(1)	Weight ratio of C_1-C_4 monohydric alcohol carrier fluid to water is greater than 99:1.
17/(1)	Comprises an organic solvent of c.logP less than 2 and a non-chlorinated volatile propellant, said composition being a homogeneous pressurized solution.				
18/(1)	Comprises an additional anti-microbial agent	10/(1)	Comprises an additional anti-microbial agent.	14/(1)	Comprises an additional anti-microbial agent.
19/(18)	Additional anti-microbial agent is a cationic bactericide	11/(10)	Additional antimicrobial agent is a cationic bactericide.	15/(1)	Additional antimicrobial agent is a cationic bactericide.
20/(19)	Additional antimicrobial agent is an organic cationic bactericide.				
21/(1)	Comprises fragrance material at up to 4% by weight of the composition	12/(1)	Comprises fragrance material at up to 4% by weight of the composition, excluding any volatile propellant present.	16/(1)	Comprises fragrance material at up to 4% by weight of the composition.

22	A method of controlling microbial numbers on the outer surface of the human body or on apparel worn in close proximity thereto, said method comprising the application to the outer surface of the human body or to apparel worn in close proximity thereto of an anti-microbial composition according to claim 1.			22 (withdrawn)	A method of controlling microbial numbers, said method comprising the application to a substrate of an anti-microbial composition according to any of the preceding claim.
23	A cosmetic method of inhibiting the generation of human body odour, said method comprising the application to the outer surface of the human body or to apparel worn in close proximity thereto of an anti-microbial composition according to claim 1.			23 (withdrawn)	A cosmetic method of inhibiting the generation of malodour comprising the topical application to the human body or to apparel worn in close proximity thereto of a composition according to any one of claims 2 to 21.
24	A cosmetic method of delivering enhanced fragrance intensity comprising the topical application to the outer surface of the human body or to apparel worn in close proximity thereto of a composition according to claim 21.			24 (withdrawn)	A cosmetic method of delivering enhanced fragrance intensity comprising the topical application to the human body or to apparel worn in close proximity thereto of a compostion according any one of claims 2 to 21 that also comprises a fragrance material.
25/(22)	A method according to claim 22 in which, in a preceding step, the outer surface of the				

	human body or apparel worn in close proximity thereto is washed and/or in a preceding or simultaneous step is contacted with an anti-microbial agent thereby lowering the viable microbial population				
26.	A method for the manufacture of an anti-microbial composition, said method comprising the formation of a solution in an organic solvent of a transition metal chelator salt according to claim 1.			25 (withdrawn)	A method for the manufacture of an anti-microbial composition, said method comprising the formation of a solution of an iron (III) chelator having an iron (III) binding constant of 10^{23} or greater in a C_1 to C_4 monohydric alcohol carrier fluid, present at a level of at least 25% by weight of the total composition (excluding any volatile propellant present), and also comprising a solubility promoter selected from the group consisting of: (a) water; (b) an organic amine; (c) a polyhydric alcohol or derivative thereof; (d) a volatile propellant having fluorine-carbon or oxygen- carbon bonds; (e) any combination of (a) to (d).
27/(26)	A method for the manufacture of an anti-microbial composition according to claim 26, comprising the addition of an acidic chelator			26 (withdrawn)	A method for the manufacture of an anti-microbial composition according to claim 25, comprising the addition of the chelator and an organic amine to water to form an

	and an amine to water to form an aqueous solution, followed by dilution with an alcohol to form an aqueous alcohol solution, optionally followed by pressurization with a liquified volatile propellant.				aqueous solution, followed by dilution with the C_1 to C_4 monohydric alcohol carrier fluid to form an aqueous alc0hol solution, optionally followed by pressurization with a liquified volatile propellant.